

§ 45-45.1. Release of mortgagor by dealings between mortgagee and assuming grantee.

Except where otherwise provided in the mortgage or deed of trust or in the note or other instrument secured thereby, or except where the mortgagor, or grantor of a deed of trust otherwise consents:

- (1) Whenever real property which is encumbered by a mortgage or deed of trust is sold and the grantee assumes and agrees to pay such mortgage or deed of trust, and thereafter the mortgagee or secured creditor under the deed of trust gives the grantee a legally binding extension of time, or releases the grantee from liability on the obligation, the mortgagor or grantor of the deed of trust is released from any further liability on the obligation.
- (2) Whenever real property which is encumbered by a mortgage or deed of trust is sold and the grantee assumes and agrees to pay such mortgage or deed of trust, and thereafter the mortgagee or secured creditor under the deed of trust or trustee acting in his behalf releases any of the real property included in the mortgage or deed of trust, the mortgagor or grantor of the deed of trust is released to the extent of the value of the property released, which shall be the value at the time of the release or at the time an action is commenced on the obligation secured by the mortgage or deed of trust, whichever value is the greater.
- (3) Whenever real property which is encumbered by a mortgage or deed of trust is sold expressly subject to the mortgage or deed of trust, but the grantee does not assume the same, and thereafter the mortgagee or secured creditor under the deed of trust makes a binding extension of time of the mortgage or deed of trust, the mortgagor or grantor of the deed of trust is released to the extent of the value of the property at the time of the extension agreement.
- (4) Whenever real property which is encumbered by a mortgage or deed of trust is sold expressly subject to the mortgage or deed of trust, but the grantee does not assume the same, and thereafter the mortgagee or secured creditor under the deed of trust, or trustee acting in his behalf, releases any of the real property included in the mortgage or deed of trust, the mortgagor or grantor of the deed of trust is released to the extent of the value of the property released, which shall be the value at the time of the release or at the time an action is commenced on the obligation secured by the mortgage or deed of trust, whichever value is the greater. (1961, c. 356.)